

BUPERSINST 1640.17D  
Pers-84  
2 March 1992

BUPERS INSTRUCTION 1640.17D

From: Chief of Naval Personnel  
To: All Ships and Stations (less Marine Corps field addressees not having Navy personnel attached)  
  
Subj: DESIGNATION OF PLACES OF CONFINEMENT FOR NAVY COURT-MARTIAL PRISONERS  
  
Ref: (a) DOD Directive 1325.4 of 19 May 88 (NOTAL)  
(b) SECNAVINST 16  
(c) NAVMILPERSCOMINST 7040.1

1. Purpose. To revise the criteria for designation of places of confinement for personnel sentenced to confinement, and for redesignation and transfer of such prisoners after confinement. This instruction is a complete revision, and should be read in its entirety.

2. Cancellation. BUPERSINST 1640.17C.

3. Background. The Navy disciplinary system now comprises a three tier system, consisting of local brig/correctional custody units (CCU's), two consolidated brig, and federal prisons. Most CCU's are being integrated into local brig. Naval Consolidated Brig (NAVCONBRIG's) at Charleston and Miramar each have a capacity of 360 intermediate term prisoners. The term brig/CCU refers to a naval waterfront brig/CCU and indicates that a brig and a correctional custody unit are collocated. Separate CCU's may exist where no brig is located. For purposes of this instruction, the term brig/CCU includes brig that are not collocated with a CCU.

4. Three Tier System. The Navy's three tier disciplinary system functions as follows:

a. The primary mission of the waterfront brig/CCU (Tier One) is pretrial detention, confinement of court-martialed persons without punitive discharges and preparation of such personnel for return to duty and future honorable service. Waterfront brig/CCU's will detain persons placed in pretrial detention; and confine prisoners serving a bread and water or diminished rations punishment for up to three days; prisoners scheduled for return to duty; prisoners with 30 days or less remaining in confinement; and prisoners who are awaiting transfer to a consolidated brig.

The CCU will be a key element in the restoration program and will contain persons awarded correctional custody (Article 15, Uniform Code of Military Justice (UCMJ) as a nonjudicial punishment. CCU's may house prisoners who are designated as installation custody prisoners per the policy in reference (b).

b. The NAVCONBRIG's (Tier Two) primary mission is confinement of persons with punitive discharges and 31 days or more to serve, who have approved or pending punitive discharges, or who are subject to mandatory administrative separation process. An additional mission is to identify and prepare select personnel for return to duty and future honorable service. Those few prisoners who are considered to be qualified for return to duty will be entered into a restoration program. Those who are considered to have no potential for return to duty will be entered into programs to prepare them for return to civilian life or, dependent upon length of sentence, to be transferred into the Federal Bureau of Prisons (BOP) or the U. S. Disciplinary Barracks, Fort Leavenworth, KS. NAVCONBRIG's are authorized to provide the functions of a waterfront brig/CCU when needed in the local area.

c. The Federal Bureau of Prisons (Tier Three) will normally confine prisoners with punitive discharges and more than one year remaining on their sentence at time of transfer, after convening authority approval and initial review by the Naval Clemency and Parole Board. Factors influencing the decision to transfer are varied and are not totally sentence-dependent. See reference (b).

#### 5. Designation of Places of Confinement

a. The following persons will be detained/confined in the nearest brig/CCU: (See paragraph 7b for special conditions affecting confinement of females).

- (1) Pretrial detainees,
- (2) Prisoners serving bread and water or diminished rations for up to three days,
- (3) Prisoners being returned to duty,
- (4) Prisoners with punitive discharges and adjusted release dates of 30 days or less,
- (5) Awardees designated Article 15, UCMJ, correctional custody (in CCU only).

b. The following personnel will be confined in the nearest NAVCONBRIG:

(1) Prisoners with punitive discharges and 31 days or more remaining to their adjusted release dates upon arrival at the consolidated brig;

(2) Personnel who are to be processed for mandatory administrative separation upon completion of confinement who will have 31 days or more remaining at arrival (The Administration Separation Board hearing must be conducted prior to transfer or the prisoner must have signed a waiver to his or her right to have an Administration Separation Board hearing); and,

(3) Prisoners awaiting transfer to the BOP.

c. Second echelon commanders may redesignate places of confinement for prisoners within their claimancy to equalize populations or for programs or security reasons and will fund all requisite expenses. If a second echelon commander is unable to accommodate the prisoner population within his or her claimancy, a request for redesignation shall be made to Chief of Naval Personnel (CHNAVPERS) (Pers-84).

d. CHNAVPERS may order redesignation of the place of confinement of any prisoner at any time, as needs dictate. Redesignation will not be done solely in order for a prisoner to be confined closer to home of record.

e. Per reference (a) and by agreement with the BOP, prisoners with more than one year's confinement remaining, at time of transfer, and a punitive discharge approved by the convening authority may be transferred to a federal facility, depending on classification and nature of offense of the prisoner. CHNAVPERS (Pers-84) will coordinate and approve all such transfers.

f. Other services having prisoners confined in waterfront brig/CCU's shall conform with the transfer policy outlined for Department of Defense (DOD) prisoners in interservice agreements as part of the DOD Consolidation of Corrections. A post-trial prisoner of another service who has a punitive discharge (not subject to suspension per a pretrial agreement) and a sentence of over 90 days to serve as a part of the sentence of a court-martial shall be transferred from the waterfront brig/CCU to a confinement facility of the member's own service. The fact that the convening authority has not taken action will not allow the prisoner to remain at the waterfront brig/CCU. A prisoner of another service who has been awarded a punitive discharge, but has 90 days or less remaining to serve to an adjusted release date on the sentence on the date of court-martial, may be allowed to serve his or her confinement at the waterfront brig/CCU. All prisoners of other services who are returning to duty upon completion of confinement may serve their confinement at the waterfront brig/CCU, as is the case with Navy prisoners. Other service prisoners' data will be entered in the Correctional Management Information System (CORMIS) as is that of any Navy prisoner.

6. Adjusted Release Date. The adjusted release date is the date a prisoner will normally be released from confinement, after deducting pretrial confinement credit, administrative credits, and potential good-conduct time credits. Time remaining to be served refers to time remaining until the prisoner's Adjusted Release Date. The Report of Results of Trial shall indicate any pretrial agreement. The pretrial agreement will affect the adjusted release date, and must be considered in determining eligibility for transfer.

## 7. Special Cases

a. Officers. All notifications of officer confinements shall be forwarded expeditiously by the officer's command to CHNAVPERS (Pers-84). The initial notification should be made immediately by telephone (DSN 224-2794, Commercial (703)614-2794) or by message.

(1) When it is necessary to place an officer in pretrial confinement, a brig/CCU will be utilized if space exists where there is not routine, continual contact with enlisted detainees or

prisoners. The minimum degree of required separation is defined as quarters that provide visual separation from enlisted prisoners/detainees and allows the officer access to normal brig privileges and schedules. If a brig/CCU that meets these requirements is not available, officers will be confined in civilian facilities as provided for in paragraph 8.

(2) When an officer is adjudged confinement, CHNAVPERS (Pers-84) will be requested by the officer's command to designate a place of confinement. In most cases, the officer will be confined at the U. S. Disciplinary Barracks, Fort Leavenworth, KS.

(3) Midshipmen, cadets and officer candidates will be administered to in the same manner as officers.

(4) If these actions are not feasible, CHNAVPERS (Pers-84) shall be requested to furnish guidance.

b. Women. All women assigned, ordered or adjudged pretrial confinement and adjusted sentences of 30 days or less will be confined in either NAVCONBRIG Miramar, CA; NAVCONBRIG Charleston, SC; NAVBRIG/CCU Jacksonville, FL; NAVBRIG/CCU Memphis, TN; NAVBRIG/CCU Philadelphia, PA; NAVBRIG/CCU Rota, Spain; NAVBRIG/CCU Yokosuka, Japan; NAVBRIG/CCU Subic Bay, RPI; NAVBRIG/CCU Pearl Harbor, HI; or NAVBRIG Guam. A command desiring to place a female in confinement for 30 days or less will designate the nearest of these facilities. All females with an adjusted sentence of 31 days or more shall be designated to NAVCONBRIG Miramar, CA or NAVCONBRIG Charleston, SC and may be placed in the above brigs/CCU's as necessary pending court-martial and transfer. Female CCU's are operated by NAVBRIG/CCU Philadelphia, PA; NAVBRIG/CCU Memphis, TN; and NAVBRIG/CCU Rota, Spain. Future female brig/CCU openings will be announced as they come on-line. Use of civilian female facilities is not encouraged; however, it is recognized that it will be necessary in some pretrial cases. Second echelon commanders and CHNAVPERS (Pers-84) will be notified immediately of each female confinement in civilian facilities (see paragraph 8).

c. Special Prisoner Transfer Situations. As a general guideline, transfer of a prisoner and entry of "alert" data into the CORMIS should be effected when he or she:

(1) Presents a security threat beyond the normal capabilities of the brig/CCU to control.

(2) Is a relative or close friend of a brig/CCU staff member.

(3) Is a former member of the brig/CCU staff.

(4) Is in jeopardy from or has testified against another prisoner or prisoners. Names of such other persons shall be supplied to insure continued separation of these personnel.

## 8. Use of Civilian Facilities

a. Pretrial Confinement. If a military facility is not reasonably available or does not meet the

requirements for officer or female confinement, a waiver to utilize a civilian facility (e.g., a federal metropolitan correctional center or a facility contracted by the U. S. Marshal's Service) must be requested from the second echelon commander on a case-by-case basis.

b. Post-Trial Confinement. If military facilities are not reasonably available for post-trial confinements, a waiver to authorize confinement in a civilian facility, while not encouraged, may be requested from the second echelon commander in those cases where confinement is 30 days or less. For sentences of 31 days or more, military facilities must be used.

c. Prisoner Visits. Prisoners in civilian facilities will receive initial reviews, visits, health and comfort issues, and other necessities as required in reference (b).

## 9. General

a. Transfers shall not be made when disciplinary action is pending against a prisoner.

b. The transferring brig shall make every effort to determine if a prisoner's presence will be required at the command for any reason (such as witness at an ensuing court-martial, ongoing medical treatment), prior to the transfer being effected. If a prisoner is transferred and is subsequently required to return to the transferring station, the cost of the move, to include escorts, shall be borne by the command requesting the prisoner's return.

c. All records and personal belongings shall accompany each prisoner upon transfer, with the exception of items such as automobiles, stereos, and TV's. Arrangements shall be made by the confining command or the prisoners' parent command to store or dispose of inappropriate items prior to transfer. The transfer is effected through the use of the DD 629, Receipt of Prisoner or Detained Person; a new NAVPERS 1640/4, Confinement Order, is not required unless there has been a change in the prisoner's sentence status prior to transfer. The original Confinement Order shall be included in the records. New confinement physical examinations are required only for cause. When a receiving brig requires a new physical examination, the receiving brig will receipt for the prisoner and make the necessary arrangements for the physical examination. If the prisoner is found physically unfit for confinement, he or she should be admitted to a medical facility for treatment. When found physically fit for confinement, he or she should be placed into confinement for completion of sentence.

d. When the convening authority requires information from records of prisoners being transferred that are essential to the review process, copies of the appropriate records shall be prepared and retained for the review prior to transfer.

e. If a transfer occurs before convening authority action, the brig initiating the transfer shall notify the convening authority of the transfer. When the convening authority takes action, two copies of the action shall be forwarded to the commanding officer of the brig where the prisoner is confined.

f. Copies of prisoners' files shall be retained at the original brig.

## 10. Procedures

a. Basic procedures for prisoner transfers are contained in reference (b), Articles 7401 through 7408.

b. The transferring brig shall notify the receiving brig at least 24 hours in advance of transfer arrangements, including transportation, identification of escorts, and estimated time of arrival. When possible, transferees should arrive during normal working hours. Receiving brigs shall be made aware of special prisoner needs/problems in advance.

c. The senior escort will accompany all prisoner shipments to the receiving brig to complete transfer details prior to the senior escort's departure. Turnover of prisoners at other than the receiving brig will be made only with the concurrence of the receiving brig.

11. Travel Authorization. Designation of an activity as a place of confinement constitutes authority to transfer a prisoner and to issue Temporary Additional Duty orders to escorts.

a. Accounting Data for Escorts. When transfers occur between local brigs/CCU's, accounting data and funding for prisoner escorts is chargeable to the transferring activity's account. When transfers occur from brigs/CCU's to NAVCONBRIG's, accounting data and funding for prisoner escorts will normally be provided by the consolidated brig.

b. Accounting Data for Prisoners. Accounting data for prisoners in a Temporary Duty status (31 or more days confinement) is contained in reference (c). Accounting data and funding for prisoners in a Temporary Additional Duty status (30 days or less) is chargeable to the activity where the prisoner is assigned.

## 12. Report and Forms

a. The reporting requirement contained in paragraph 7a is exempt from reports control by SECNAVINST 5214.2B.

b. The following forms are available in the Navy Supply System using requisitioning procedures contained in NAVSUP P-2002, Navy Stock List of Publications and Forms:

DD 629 (MAR 58), Receipt for Prisoner or Detained Person,  
S/N 0102-LF-000-6290

NAVPERS 1640/4 (Rev. 7-82), Confinement Order,  
S/N 0106-LF-016-4023

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